IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**
**and**
**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 8287 of 2004**

Between:
Gurram Chiranjeevi S.Rao S/o G.Seetharamaiah
17-1-12, Kanyaka Parmeshwari Street, Ongole, Prakasham Dist
**..... PETITIONER**

AND

1 The Presiding Officer Debt Recovery Tribunal, Visakhapatnam
Dwarakanagar, 2nd Lane, Visakhapatnam Dist
2 State Bank of India Commercial Branch , Ongole
Prakasham Dist, rep,. by its Chief Manager
3 M./S Sri Dattasayi Ltd., rep.by its Managing Director ,
Sri G.Seetharanmaiah Presently at C/o V.Narsimha Reddy
1-5-66/6C, New Maruthinagar, Dilsukhnagar , Hyderabad
4 G.Seetharamaiah S/o Seshaiah
C/o V.Narsimha Reddy H.No.1-5-66/6C, New Maruthinagar,
Dilsukhnagar , Hyd
5 Gurram Krishna Murthy S/o Seshaiah
D.No.17-1-12, Kanyaka Parameswari Street, Ongole , Prakasham
Dist
6 Gurram Sridhar Babu S/o Krishna Murthy
D.No. 17-1-12, Kanayaka Parameswari Street, Ongole , Prakasham
Dist
7 Smt. G. Lakshmi Kumari W/o Seetharamaiah
H..No.1-5-66/6C,, New Maruthinagar, Dilsukhnagar , Hyd
8 Smt. G. Radha Devi W/o Krishna Murthy
D.No.17-1-12,Kanyaka Parameswari Street, Ongole, Parkasham
Dist

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of MANDAMUS, quashing the impugned order dt. 23/04/2004 passed by the 1st respondent in IA.No.448/2003 in OA.No.209/2002 and consequently directing the 1st respondent to implead the petitioner herein as 8th respondent in OA.No.209/2002 and also consequently set aside the order, dt. 23/04/2004 passed by the 1st respondent in IR.No.2205/2004 in IA.No.402/2002 in OA.No.209/2002 in the interest of Justice

**For the Petitioner: MR.P.SHIV KUMAR , Advocate**

**For the Respondent No.: MR.A.RAJASHEKAR REDDY (SC FOR CG)**

**For the respondent No.2 : Mr. M. NARENDER REDDY, ADVOCATE**

**The Court made the following :**

**ORAL ORDER (per Hon'ble the Chief Justice):**

Order passed by the Presiding Officer, Debt Recovery Tribunal, Visakhapatnam, dated 23rd April 2004 dismissing the petitioner's application for being impleaded as claimant in O.A.No. 209 of 2002 is now under challenge before us. The application of the petitioner was dismissed by a lengthy order. Petitioner is questioning the legality and validity of the said order.

O.A.No.209 of 2002 is still pending before the Debt Recovery Tribunal, Visakhapatnam. Petitioner has got statutory remedy under Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, against the said order.

Learned counsel for the petitioner submits that on earlier occasion also this Court had exercised writ jurisdiction under Article 226 of the Constitution of India and availability of alternative remedy cannot be a ground to dismiss the writ petition.

No doubt, availability of alternative remedy cannot be a bar for this Court to exercise Writ jurisdiction under Article 226 of the Constitution of India, but there is no reason why, in such a like cases when statutory remedy is available which is equally adequate and efficacious, we should, in every case, exercise Writ jurisdiction under Article 226 of the Constitution of India. We are not inclined to invoke writ jurisdiction and reserve liberty to the petitioner to challenge the said order by availing alternative remedy by filing appeal.

Learned counsel for the petitioner submits that the period to challenge the order has since expired. Learned counsel for respondent No.1 states that respondent - bank will not raise the question of limitation in case appeal is filed by the petitioner within two weeks from today to challenge the impugned order.

Consequently, we dismiss the writ petition and direct that in case appeal is filed within two weeks, the same will be entertained by the Tribunal and decide in accordance with law without raising the question of limitation. No costs.

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DEVINDER GUPTA, C.J.,

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G. ROHINI, J.,

Dated: 28-06-2004
Kvrk/Vrk

To

1. The Presiding Officer, Debt Recovery Tribunal, Visakhapatnam, Dwarakanagar, 2nd lane, Visakhapatnam District.
2. The Chief Manager, S.B. I, Commercial Bank, Ongole,Prakasam District.

3. 2CD copies

**HON'BLE SRI DEVINDER GUPTA,**
**CHIEF JUSTICE**

**AND**

**HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO. 8287 of 2004**

**(Order of the Bench delivered by**
**Hon'ble the Chief Justice)**

**DATED: 28-06-2004**